

REMARKS

Entry of this amendment is respectfully requested.

The objection tot the drawings has been rendered moot by the drawings submitted herewith.

Claims 35-41, 43 and 44 were finally rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over Bunz in view of Pope and McLean. Claim 42 was rejected 35 U.S.C. §103(a) for allegedly being obvious over the combination of Bunz, Pope, McLean and Teinturier. Claim 45 was rejected under 35 U.S.C. §103(a) for allegedly being obvious over Bunz in view of Pope. Applicants respectfully traverse each of these rejections.

At page 7 of the office action, the Examiner disagrees with Applicants that there is no motivation to provide Bunz with depressions. The Examiner argues that Pope has disclosed a method of interlocking layers of an orthopedic implant and allegedly uses a method that is substantially the equivalent to that claimed by applicant because the use of undulations on a surface locking to depressions on a facing surface. He also alleges that regardless of the location of the two surfaces outside of their relation to each other, this method solves the same problem as applicant which is achieving a mechanical interlock. Furthermore, the Examiner alleges that substituting the interlock method of Bunz with the interlocking method of Pope would have been obvious to one of ordinary skill in the art as both of the methods of achieving mechanical interlock were know n and used in the art at the time of the subject invention.

The Examiner argues that the two method of achieving interlock were known so it would be obvious to combine them, but fails to explain why one would want to combine them, a clear

case of using hindsight to arrive at the invention. Why would one combine them if, independently, they achieve a stated goal?

Furthermore, what would motivate one of skill in the art to recognize that the two methods are compatible with each other?

The Examiner is again respectfully invited to answer the following question- what evidence is there that Benz's implant needs further mechanical interlock? Bunz already achieves suitable interlock by, *inter alia*, providing sliding cup 1 with a shaped stud 3 which projects into plastic cover 2 to provide mechanical stability.

Thus, one would have to replace stud 3 of Bunz with depressions as claimed to arrive at the presently claimed invention, which would render Bunz inoperable for its intended purpose. The Examiner has totally failed to address the issue of Bunz being unfit for its intended purpose, and is respectfully requested to provide reasons why applicants are incorrect in this assertion.

Furthermore, it is reiterated that claim 35 recites that the prosthesis includes an inner sliding cup that compresses a ceramic material, a plastic covering and an outer metal cup. Pope recites problems with all such materials (see, e.g., columns 3-4 of Pope). Bunz provides an inner ceramic sliding cup (1) surrounded by a plastic cover (2) for insertion into an outer metal cup of an artificial hip joint (Abstract). Thus, Pope teaches away from even starting with Bunz, and also teaches away from using the materials of the claims.

It is also reiterated that Pope teaches at column 41, lines 23-25 and column 43, lines 15-35 topographical features of the ball of the femur, and perhaps to the inner surface of the slidable cup, and not to the outer surface of the slidable cup. Thus, there is no motivation in the references or otherwise to make the Examiner's proposed combination.

Thus, all rejections should be withdrawn as they are all based on a combination of Bunz and Pope.

In view of the foregoing, allowance is requested.

The Commissioner is hereby authorized to deduct any fee associated with this filing from Deposit Account No. 50-0624.

Respectfully submitted,

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